

STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF
MONICA TETEE KUN, L.P.N.
License No.: NP 05483200
TO PRACTICE NURSING IN THE
STATE OF NEW JERSEY

ADMINISTRATIVE ACTION
FINAL ORDER OF DISCIPLINE

This matter was opened to the New Jersey State Board of Nursing ("the Board") upon receipt of information which the Board has reviewed and on which the following findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent is a licensed practical nurse in the State of New Jersey, and has been a licensee at all times relevant hereto.

2. On or about July 2, 2013, a Provisional Order of Discipline was entered, provisionally imposing a reprimand and a civil penalty in the amount of \$250.00 for Respondent's having engaged in misrepresentation on her 2011 renewal application when she did not disclose that on or about January 27, 2011, the

Montana State Board of Nursing denied her application for a license based upon a finding that she had committed unprofessional conduct by submitting an unofficial, invalid, false transcript purporting to be from the New York Institute of Technology, which may have been obtained illegally. The Provisional Order also cited the violation of N.J.A.C. 13:37-5.9, which requires a licensee to self-report if she has been the subject of disciplinary action in any other jurisdiction.

3. Respondent contested the findings of the provisional order, maintaining that she had not engaged in misrepresentation on her application, in that her license application had been denied in 2010, and no action was brought against her license or pending against her license at the time of the renewal.

4. Upon consideration of respondent's submissions, the Board realized that it had inadvertently failed to act on the substantive conduct that was the subject of disciplinary action in the Montana Order entered on January 7, 2011. The Montana Order, which respondent did not contest, found that respondent "submitted, or facilitated, or allowed the submission on her behalf, of a false transcript, which constituted fraud, misrepresentation, deception or concealment of a material fact in applying for or assisting in securing a license or license renewal or in taking an examination required for licensure."

DISCUSSION AND CONCLUSIONS OF LAW

At the May 2, 2014 meeting, the Board considered the Amended Provisional Order of Discipline (POD) and response dated January 20, 2014. As a preliminary matter, the Board noted that pleadings can be freely amended when,

in the judge's discretion, an amendment would be in the interest of efficiency, expediency and the avoidance of over-technical pleading requirements and would not create undue prejudice

N.J.A.C. 1:1-6.2¹

The Board determined that no undue prejudice resulted from the amendment of the Provisional Order as the allegations included by the amendment were based upon the same events that gave rise to the allegations in the original provisional order. Respondent does not contest the facts as alleged, merely the legal conclusions that the State urged this Board to make. No additional discovery was required as a result of the amendment, and Respondent has been given ample opportunity, on multiple occasions to submit in response to the amendments, statements and evidence for consideration by this Board.

¹ New Jersey Court Rule 4:9-2 similarly states that the pleadings should be amended "freely when the presentation of the merits of the action will be thereby subserved and the objecting party fails to satisfy the court that the admission of such evidence would be prejudicial in maintaining the action or defense upon the merits."

The Board next considered Respondent's request for a hearing in this matter and determined that there were no disputed facts and Respondent had not articulated what subject(s) such a hearing would address. The Board determined a hearing on liability was not necessary as respondent admitted the underlying conduct occurred in Montana and proceeded to accept the entire Findings of Fact as alleged in the POD in their entirety, as they were uncontested. The Board considered each of the Conclusions of Law and modified them as discussed below.

With regard to the allegations that Respondent failed to disclose on renewal in violation of N.J.S.A. 45:1-21(b) and N.J.A.C. 13:37-5.9, Respondent claims that she never had a license in Montana and therefore no action could have been taken against it. Thus, she claims she had no duty to report. Upon review of question #4 on the renewal application (which requires disclosure of any action taken or pending against your professional license) and N.J.A.C. 13:37-5.9 (which requires notification to the Board of any misconduct related to his or her practice), the Board found that the State had not met its burden of proof on these allegations.

Accordingly, the Conclusions of Law were amended to find a violation only of N.J.S.A. 45:1-21(b) in that Respondent's admitted submission of fraudulent transcripts in support of an

application for an RN license in Montana constitutes the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense.

The Board further determined to allow Ms. Kun 30 additional days to submit evidence and argument in mitigation of penalty. At the October 3, 2014 meeting the Board considered the materials submitted by Respondent in mitigation of penalty and a letter submitted by the Attorney General's Office. Respondent again requested a hearing. This request was denied and the Board proceeded to review Respondents submissions in mitigation in the light most favorable to Respondent.

In a sworn, certified statement Respondent acknowledged that she submitted a false transcript to the Montana State Board of Nursing in order to obtain a Registered Nurse License in order to work in that State. She expressed sincere remorse for her conduct and appears to understand the gravity of her mistakes and the potential harm to the public that might have resulted from her being granted a license to practice as a Registered Nurse when she was not adequately trained. Respondent explained that was severely depressed as a result of being in an abusive relationship² when she was approached by a man offering to "help" her by

² Respondent provided documentation showing that she applied for and received a temporary restraining order against her boyfriend during the relevant time period.

. . .securing a falsified college transcript which would show that I had obtained an RN degree, of which I would pay him \$4000. . . I paid him a portion of the money, and he secured a false RN transcript on my behalf, which I thereafter utilized to apply for a Montana license.

Respondent's Certification dated August 15, 2014

Respondent continues to explain that her rejection from the Montana State Nursing Board was a catalyst to change her life. She has ended her abusive relationship and hopes to secure her valid RN degree in May 2015. She has worked as an LPN for the same employer since 2009 (and previously for the same employer from 2003 to 2005).

While the Board has empathy for the significant personal issues Respondent was dealing with at the time of her conduct, the Board cannot countenance that the status of being in an abusive relationship completely exonerates a deliberative attempt to obtain a license by fraud. Serious discipline is clearly warranted when a licensed professional exhibits such blatant dishonesty.

However, the events at issue appear to have inspired Respondent to make significant changes in her personal and professional life. This Board is aware of no other discipline related to her professional license before or since the relevant

events and she has exhibited professional longevity with a single employer. Finally, two of the allegations in the Provisional Order were dismissed. Accordingly, it is appropriate that a lesser penalty should be imposed than that proscribed in the Provisional Order.³

ACCORDINGLY, IT IS on this 23 day of January, ~~2014~~ ²⁰¹⁵
ORDERED that:

1. Respondent's New Jersey nursing license is hereby suspended for a period of three years for her violations of N.J.S.A. 45:1-21(b). The first year shall be served as a period of active suspension beginning effective February 1, 2015, with the remaining two years stayed and served as a period of probation.

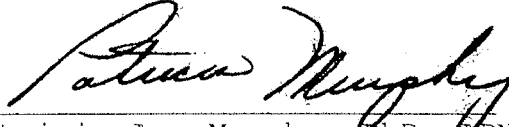
2. A \$5000 civil penalty is hereby provisionally imposed upon Respondent for the violation of N.J.S.A. 45:1-21(b). Payment shall be made within 30 days of the date this Order is filed by bank check, money order, wire transfer or credit card made payable to the State of New Jersey and mailed to the New Jersey State Board of Pharmacy, ATTN: George Hebert, Executive Director, 124 Halsey Street, P.O. Box 45010, Newark, New Jersey

³ In coming to an appropriate penalty the Board also considered the Attorney General's proffer that this Board recently decided two other cases with similar fact patterns, both of which resulted in a three year suspension, one year active and two years stayed and served as a period of probation and a \$7500 civil penalty.

07101. Any other form of payment will be rejected and will be returned to the party making the payment. In the event that respondent fails to make timely payment, interest shall begin to accrue at the annual court rule rate, a Certification of Debt shall be issued, and the Board may institute such other proceedings as are authorized by law, including automatic suspension of Respondent's license as described herein.

NEW JERSEY STATE BOARD OF NURSING

By: _____


Patricia Ann Murphy, PhD, APN
Board President